

Senate Study Bill 1062 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act providing time off from work to attend presidential
2 precinct caucuses and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39A.5, subsection 1, paragraph b, Code
2 2015, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (3) As an employer, denying an employee
4 the privilege conferred by section 43.4A to attend a precinct
5 caucus, or subjecting an employee to a penalty because of the
6 exercise of that privilege.

7 Sec. 2. NEW SECTION. **43.91A Employees entitled to time to**
8 **participate in presidential precinct caucuses.**

9 1. Any person entitled to participate in a precinct caucus
10 held as part of the presidential nominating process in this
11 state who is required to be present at work for an employer
12 during the four-hour period starting one hour prior to the
13 time the precinct caucus starts is entitled to take unpaid
14 leave for as much of that four-hour period as is necessary to
15 participate in the precinct caucus except as provided by this
16 section. Application by any employee for such absence shall be
17 made to the employee's employer individually and in writing at
18 least seventy-two hours prior to the time the precinct caucus
19 is scheduled to start. The employee shall not be liable for
20 any loss of wages or salary or any other penalty except for the
21 loss of wages or salary for the hours of unpaid leave actually
22 used.

23 2. a. An application by an employee for an absence may be
24 denied by an employer if all the following circumstances exist:

25 (1) The person is employed in an emergency services position
26 which shall include peace officer, fire fighter, emergency
27 medical personnel, and any other position that affects the
28 protection of public health or safety, or is employed by an
29 entity that would experience severe economic or operational
30 disruption due to the person's absence.

31 (2) The employer filed a written notice with the
32 commissioner at least seven days prior to the date of the
33 precinct caucus specifying exigent circumstances justifying the
34 denial of such leave for personnel described in subparagraph
35 (1) and declaring the minimum number of such personnel,

1 by position, needed to protect public health and safety or
2 maintain minimum operational capacity, as applicable. A copy
3 of this written notice shall be provided to employees of the
4 employer.

5 (3) The number of persons employed in a position that did
6 not apply for an absence is less than the minimum number of
7 persons in that position needed by the employer to protect
8 public health and safety or maintain minimum operational
9 capacity, as applicable.

10 b. If the circumstances in paragraph "a" exist as to a
11 particular position of the employer, then the employer may deny
12 the minimum number of employees in that position applying for
13 an absence that is needed to yield the minimum staffing level
14 for that position as specified in the written notice to the
15 commissioner. The selection of which employees applying for
16 an absence shall be denied an absence shall be made without
17 regard to political party affiliation, political belief, or
18 affiliation with or support for any candidate, or for any of
19 the grounds for which employment discrimination is prohibited
20 in this state.

21 3. This section shall not be construed to prohibit an
22 employer from doing any of the following:

23 a. Authorizing paid leave to all affected employees.

24 b. Allowing all affected employees the option to work
25 additional compensatory hours, at a time designated by the
26 employer not in conflict with the time needed for caucus
27 participation, equal in number to the number of hours taken to
28 participate in the presidential precinct caucus as provided in
29 subsection 1. The option of working compensatory hours may be
30 exercised individually by each employee. Work performed during
31 the compensatory hours shall be compensated in the same manner
32 as work performed during regular hours.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill provides that a person shall be entitled to unpaid
2 time off from work to attend a presidential precinct caucus for
3 up to four hours beginning one hour prior to the start of the
4 precinct caucus. The bill provides that the employee shall
5 make a written application with their employer for such absence
6 and the employee is not liable for any penalty nor shall any
7 deduction be made from the person's regular salary or wages
8 except for the period of time of the absence.

9 The bill provides that the requirement to allow time off
10 does not apply if the person is employed in a position that
11 affects the protection of public health or safety or by an
12 entity that would experience severe economic disruption due
13 to the person's absence. Such employer must file a written
14 notice with the county commissioner of elections specifying the
15 exigent circumstances justifying the denial of such leave and
16 the minimum number of persons needed, by position, to protect
17 public health and safety or maintain minimum operational
18 capacity, and that the number of persons not applying for leave
19 is less than the minimum number specified by the employer.
20 The denial of leave for those number of persons needed to
21 reach the minimum staffing number specified must be done in a
22 nondiscriminatory manner.

23 The bill also permits an employer, in lieu of providing
24 unpaid leave, to provide paid leave for the absence or to allow
25 affected employees the option to work the hours of the absence
26 at such other time so long as either option is made available
27 to all affected employees.

28 The bill provides that an employer who denies an employee
29 the privilege conferred by this bill to attend a presidential
30 precinct caucus commits election misconduct in the fourth
31 degree, a simple misdemeanor. A simple misdemeanor is
32 punishable by confinement for no more than 30 days or a fine of
33 at least \$65 but not more than \$625 or by both.